

§ 10.40

or without the collection of liquidated damages if the port director is satisfied that the merchandise was destroyed under circumstances which precluded any arrangement to obtain Customs supervision. Satisfactory documentary evidence of exportation, in the case of carnets, would include the particulars regarding importation or reimportation entered in the carnet by the Customs authorities of another contracting party, or a certificate with respect to importation or reimportation issued by those authorities, based on the particulars shown on a voucher which was detached from the carnet on importation or reimportation into their territory, provided it is shown that the importation or reimportation took place after the exportation which it is intended to establish.

(4) Upon the payment of an amount equal to double the duty which would have accrued on the articles had they been entered under an ordinary consumption entry, or equal to 110 percent of such duties where that percentage is prescribed in §10.31(f), if such amount is determined to be less than the full amount of the bond.

(f) *Anticipatory breach.* If an importer anticipates that the merchandise entered under a Temporary Importation Bond will not be exported or destroyed in accordance with the terms of the bond, the importer may indicate to Customs in writing before the bond period has expired of the anticipatory breach. At the time of written notification of the breach, the importer shall pay to Customs the full amount of liquidated damages that would be assessed at the time of breach of the bond, and the entry will be closed. The importer shall notify the surety in writing of the breach and payment. By this payment, the importer waives his right to receive a notice of claim for liquidated damages as required by §172.1(a) of this chapter.

(g) If the petitioner is not satisfied with the port director's action under this section and submits a supplemental petition, both the original and the supplemental petitions shall be transmitted to the designated Head-

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quarters official with a full report on the case.

[28 FR 14663, Dec. 31, 1963, as amended by T.D. 69-146, 34 FR 9799, June 25, 1969; T.D. 70-249, 35 FR 18265, Dec. 1, 1970; T.D. 71-70, 36 FR 4485, Mar. 6, 1971; T.D. 73-308, 38 FR 30549, Nov. 6, 1973; T.D. 74-227, 39 FR 32015, Sept. 4, 1974; T.D. 75-36, 40 FR 5146, Feb. 4, 1975; T.D. 84-213, 49 FR 41165, Oct. 19, 1984; T.D. 89-1, 53 FR 51249, Dec. 21, 1988; T.D. 91-71, 56 FR 40779, Aug. 16, 1991; T.D. 95-22, 60 FR 14632, Mar. 20, 1995; T.D. 98-10, 63 FR 4167, Jan. 28, 1998; T.D. 99-27, 64 FR 13675, Mar. 22, 1999; T.D. 00-57, 65 FR 53574, Sept. 5, 2000]

§ 10.40 Refund of cash deposits.

(a) When a cash deposit is made in lieu of surety, it shall be refunded to the person in whose name the entry is made upon exportation in compliance with §10.38.

(b) If any article entered under Chapter 98, subchapter XIII, Harmonized Tariff Schedule of the United States, is not exported or destroyed within the period of time during which articles may remain in the Customs territory of the United States under bond (including any lawful extension), the port director shall notify the importer in writing that the entire cash deposit will be transferred to the regular account as liquidated damages unless a written application for relief from the payment of the full liquidated damages is filed with the port director within 60 days after the date of the notice. If such an application is timely filed, the transfer of the cash deposit to the regular account as liquidated damages shall be deferred pending the decision of the Headquarters, U.S. Customs Service or, in appropriate cases, the port director on the application.

[28 FR 14663, Dec. 31, 1963, as amended by T.D. 84-213, 49 FR 41165, Oct. 19, 1984; T.D. 89-1, 53 FR 41249, Dec. 21, 1988]

INTERNATIONAL TRAFFIC

§ 10.41 Instruments; exceptions.

(a) Locomotives and other railroad equipment, trucks, buses, taxicabs, and other vehicles used in international traffic shall be subject to the treatment provided for in part 123 of this chapter.

(b) [Reserved]

(c) Foreign-owned aircraft arriving in the United States shall be subject to